

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

IN RE REGIONS MORGAN KEEGAN
SECURITIES, DERIVATIVE and ERISA LITI-
GATION

This Document Relates to:
Landers v. Morgan Asset Management, Inc.,
No. 2:08-cv-02260-SHM-dkv
— and —
*In re Regions Morgan Keegan Open-End Mu-
tual Fund Litigation*,
No. 2:07-cv-02784-SHM-dkv

MDL Docket No. 2009

Judge Samuel H. Mays, Jr.

Magistrate Judge Diane K. Vescovo

**JOINT REPORT OF THE NOMINAL DEFENDANTS, DERIVATIVE PLAINTIFFS
AND LEAD PLAINTIFFS AND AMENDMENT TO (1) JOINT MOTION FOR
PRELIMINARY APPROVAL OF PARTIAL SETTLEMENT AND (2) JOINT
MOTION FOR APPROVAL OF RULE 23.1 NOTICE TO SHAREHOLDERS AND
FOR FINAL APPROVAL OF THE AMENDED MEMORANDUM OF
UNDERSTANDING**

Lead Plaintiffs, Kathryn S. Cashdollar Estate, Dajalis Ltd., Jeanette H. Landers, H. Austin Landers, and Frank D. Tutor (“Lead Plaintiffs”), in *In re Regions Morgan Keegan Open-End Mutual Fund Litigation*, Case No. 2:07-cv-02784-SHM-dkv (the “*Open-End Class Action*”); Derivative Plaintiffs, H. Austin Landers, Jeanette H. Landers, James H. Frazier, Estate of Charles M. Crump, Diana W. Crump, James P. Whitaker and Peggy C. Whitaker (“Derivative Plaintiffs”), in *Landers v. Morgan Asset Management, Inc.*, Case No. 2:08-cv-02260-SHM-dkv (the “*Landers Action*”); and Nominal Defendants Helios Select Fund, Inc. (formerly Morgan Keegan Select Fund, Inc.), Helios Select Short Term Bond Fund (formerly Regions Morgan Keegan Select Short Term Bond Fund), Helios Select Intermediate Bond Fund (formerly Regions Morgan Keegan Select Intermediate Bond Fund), and Helios Select High Income Fund (formerly Regions Morgan Keegan Select High Income Fund) (collectively, the “Funds” and together with Derivative Plaintiffs and Lead

Plaintiffs the “Movants”) filed their “Status Report of the New Board and Nominal Defendants and Plaintiffs’ Joint Motion to Extend Stay” on November 30, 2010 (*Landers* ECF No. 98, the “Joint Report and Motion”) wherein they informed this Court that the Funds and the Derivative Plaintiffs (and counsel) had entered into a Memorandum of Understanding in the *Landers* Derivative Action (*Landers* ECF No. 98-1, the “MOU”).

Pursuant to the terms of the MOU, the Funds and Lead Plaintiffs reached a settlement of claims in the *Open-End Class Action*, whereby without admitting or denying liability but consenting to the Court’s jurisdiction, judgment is to be entered against only the Funds on the Securities Act of 1933 Section 11 claim against them in that litigation, placing the putative settlement class in the position of a judgment creditor of the Funds, with the judgment debt to be satisfied solely out of recovery by the Funds on their derivative claims in the *Landers Action*. The Movants also reported in the Joint Report and Motion that pursuant to the MOU, Derivative Plaintiffs’ counsel would assume the representation of the Funds in their pursuit of their claims in the *Landers Action*. On December 6, 2010, this Court entered an Order (*Landers* ECF No. 100) preliminarily approving the MOU and granting the Movants an extension of time within which to file appropriate motions to expedite the advancement of this litigation.

On March 14, 2011, Movants filed their motions (the “Joint Approval Motions”) as directed by the Court in its December 6 Order. Those Joint Approval Motions, namely: (1) the Joint Motion for Approval of Rule 23.1 Notice to Shareholders and for Final Approval of the Memorandum of Understanding (the “Joint MOU Approval Motion,” *Landers* ECF 103) and (2) Joint Motion for Preliminary Approval of Partial Settlement and Approval of Notice to Settlement Class Members (the “Joint Partial Settlement Motion,” *Class Action* ECF No. 309) moved this Court for:

- (i) an Order pursuant to the Joint Partial Settlement Motion approving the

following in the *Open-End Class Action*:

1. Partial Settlement;
2. Preliminary Certification of Settlement Classes;
3. Preliminary Certification of Class Representatives;
4. The form of Notice to the members of the Settlement Classes;
5. Notice Date;
6. Form of Summary Notice for Publication; and
7. Date for the Final Approval Hearing.

(ii) an Order pursuant to the Joint MOU Approval Motion approving the MOU as filed in the *Landers Action*, as follows:

1. Approving the form, substance, and requirements of the proposed form of Notice to the shareholders of the Funds and establishing a date on or before which notice shall be mailed to shareholders;
2. Establishing a date for a final hearing: (a) to determine whether the MOU is in the best interests of the Funds and whether the MOU should be finally approved by the Court; and (b) to rule upon such other matters as the Court may deem appropriate;
3. Establishing a deadline for the filing of objections properly made with respect to the MOU; and
4. Giving final approval to the MOU.

Following the filing of Movants' Joint Approval Motions on March 14, 2011, the non-settling Defendants in these proceedings (the "Opposing Defendants") filed five (5) separate responses in opposition (the "Defendants' Memoranda in Opposition") to the Joint Partial Settlement Motion filed by Lead Plaintiffs and the Funds in the *Open-End Class Action* (Class Action ECF No. 309) and the Joint MOU Approval Motion filed by Derivative Plaintiffs and the Funds in the *Landers Action* (Landers ECF No. 103). The Defendants' Memoranda in Opposition are as filed by the following Defendants: Morgan Keegan & Company, Inc., Morgan Asset Management, Inc., MK Holding, Inc. and the individual de-

defendants identified therein (the “Morgan Keegan Brief”: *Class Action* ECF No. 326; *Landers* ECF No. 118); Regions Financial Corporation and Regions Bank (*Class Action* ECF No. 315; *Landers* ECF No. 108); PricewaterhouseCoopers LLP (*Class Action* ECF No. 314; *Landers* ECF No. 107); Carter E. Anthony (*Class Action* ECF No. 316); and certain individuals who formerly served as independent directors for the Funds (*Landers* ECF No. 113).

Subsequent to the filing by Opposing Defendants of their Memoranda in Opposition to the Joint MOU Approval Motion and the Joint Partial Settlement Motion, the Lead Plaintiffs and Derivative Plaintiffs, through their counsel, and the Funds, through their counsel, agreed upon certain amendments to the MOU, which were effected by, and are reflected in, the Amended Memorandum of Understanding in *Landers* Derivative Action, dated June 21, 2011 (the “AMOU”), which is attached as Exhibit A-1 hereto and incorporated herein by reference thereto. For the Court’s benefit and convenience, attached as Exhibit A-2 hereto is a copy of the AMOU marked to identify the changes made to the MOU.

Due to the fact that the AMOU amends and restates the MOU in its entirety, it is necessary to substitute the defined term “AMOU” for “MOU” in each place where that defined term appears in the Joint MOU Approval Motion and in the Joint Partial Settlement Motion. Accordingly, Movants hereby amend (1) the Joint MOU Approval Motion (*Landers* ECF No. 103) and (2) the Joint Partial Settlement Motion (*Class Action* ECF 309) to change the name “Memorandum of Understanding in *Landers* Derivative Action” to “Amended Memorandum of Understanding in the *Landers* Derivative Action” and to substitute the defined term “AMOU” for the defined term “MOU” wherever it appears in the Joint MOU Approval Motion and the Joint Partial Settlement Motion. Further, for purposes of this Joint Report and Amendment to (1) the Joint MOU Approval Motion and (2) the Joint Partial Settlement Motion, the Notice filed as Exhibit B to *Class Action* ECF No. 309 and the Summary Notice filed as Exhibit C to *Class Action* ECF No. 309 are hereby amended and replaced by the Notice of Pending and Partial Settlement of Class Action, attached as Exhibit B hereto, and the Summary Notice, attached as Exhibit C hereto, respec-

tively. Revised [Proposed] Orders granting Movants' Joint Approval Motions will be submitted to the Court in accordance with the Court's Local Rules.

DATED: June 24, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that this 24th day of June, 2011, a true and correct copy of the foregoing was served by electronic means via e-mail transmission (including the Court's ECF System) on the following:

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